



THE COUNCIL OF  
THE CITY OF NEW YORK

Commissioner Vincent Sapienza  
New York City Department of Environmental Protection  
59-17 Junction Blvd  
Flushing, NY 11368

November 3, 2020

Dear Commissioner Sapienza,

We write to request clarification regarding the timeline for design and construction of the two Combined Sewer Overflow (CSO) tanks that the NYC Department of Environmental Protection (DEP) is obligated to construct as part of the Superfund cleanup of the Gowanus Canal under the supervision of the U.S. Environmental Protection Agency (EPA) -- and to insist that the CSO tanks proceed on-schedule.

As you know, the Superfund cleanup of the Gowanus Canal is a top priority in our districts, for which we have been fighting for over a decade, and we are enthusiastic that the dredging of the northern section of the canal will begin later this month. In order to preserve and protect the cleanup, it is essential that we significantly reduce CSO events, which is why the tanks are so essential. We are grateful for DEP's partnership and work to fulfill the City's Superfund obligations.

It is our understanding that on June 24, 2020, your agency requested a 12-month extension to complete construction on RH-034 (the 8 million gallon CSO tank for the northern section of the canal) and an 18-month extension to complete construction on OH-007 (the 4 million gallon CSO tank for the southern section), due to budget constraints resulting from revenue gaps from reduced city-wide water usage, as well as delays caused by the Covid-19 pandemic. The EPA (in its September 2, 2020 letter), neighborhood residents, and environmental advocates in the SWIM Coalition have expressed concern that these delays will undermine the cleanup process, just as the dredging begins.

In the interest of transparency, and to ensure that our communities are best served by consequential decisions affecting our environment and public health, we request your response to the following questions:

- What were the original timelines and milestones in the Gowanus Superfund Record of Decision (or other relevant documents) relating to tank design and construction, and where are you now in relationship to those timelines? Please describe the cause for past delays to the original timeline.
- Please explain any extension on design and/or construction that DEP is currently seeking, and the reason for this request.

- What is the current timeline for completing design and construction for each of the two retention tanks, with and without an extension granted by the EPA?
- Please explain why you believe a delay to the completion of the RH-034 and OH-007 CSO tanks is responsible in light of the Superfund dredging timeline and will not result in significant recontamination of the canal. Do you project that DEP will incur costs for maintenance dredging of sewage between the completion of the Superfund dredging and the completion of the tanks?
- Have you explored cost-cutting measures, such as alternative land acquisition pathways for the OH-007 tank in order to cut costs as proposed by EPA?

Finally, we are enthusiastic about the new, more aggressive citywide stormwater management rule, which the City Council voted to adopt in August, and for which DEP is now engaged in rulemaking. This new rule would result in significantly greater stormwater capture requirements for new development in the Gowanus watershed, and therefore potentially fewer CSO events, with less sewage flowing into the canal as a result. We are eager to see the modeling of the application of this rule to the Gowanus area, as part of or prior to the Draft Environmental Impact Statement (DEIS) for the Gowanus Neighborhood Rezoning.

We look forward to reviewing your responses. We believe firmly that our economic recovery will depend on continued investment in essential infrastructure and capital improvements, especially those that protect our health and environment. We are eager to speak further about avenues for advancing tank construction efficiently and on schedule, as part of our broader work to ensure a clean, healthy, and resilient Gowanus neighborhood.

Sincerely,

Brad Lander  
New York City Council Member  
39<sup>th</sup> Council District, Brooklyn

Stephen Levin  
New York City Council Member  
33<sup>rd</sup> Council District, Brooklyn

cc: Michael DeLoach, Deputy Commissioner for Public Affairs, NYC Department of Environmental Conservation  
 Daniel Wiley, Office of Congresswoman Nydia Velazquez  
 Susannah Pasquantonio, Office of Assembly Member Jo Anne Simon  
 Michael Racioppo, District Manager, Brooklyn Community Board 6  
 Christos Tsiamis, Senior Project Manager, U.S. EPA  
 Doug Sarno, Gowanus CAG Facilitator  
 Andrea Parker, Executive Director, Gowanus Canal Conservancy  
 Julie Welch, Program Manager, SWIM Coalition